IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL Nos. 1240 & 1291 of 2004

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WRIT APPEAL NO : 1240 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/04/2004 in WP NO : 13851 OF 1992 on the file of the High Court.)

Between:

1 Y. Murali S/o Bhoomaiah
C/o B. Chakraprani, Vijayapuri Street, Jagityal, karimnagar District
2 Aella Vykuntam S/o Ramakishtaiah
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
3 B. Chakrapani S/o Kishinatham
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
4 B. Sree Ramulu, S/o narayana
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
5 P. Gangadhar S/o Venkanna
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
6 P. Laxmi Kanthan S/o Satyanarayana
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
7 G. Srinivas S/o Sri Venkatanarayana
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
8 Y. Sreedevi W/o Dasharatham
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
9 A. Jalapathi S/o SRi Laxmaiah
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
10 N. Bhikshapathi S/o Gattaiah
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
11 A. Ramadevi D/o Jalapathi,
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
12 N. Dashrathan S/o Kommalu
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
13 Ch. Venkateswarlu S/o Goverdhan
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
14 Y. Rajendra Prasad, S/o Murali
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
15 A. Venkata Ramana S/o Ramachandram
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District

16 P. Vidyansagar, S/o Gangadhar
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District
17 A. Chandramouli S/o Gangaram
C/o B. Chakraprani, Vijayapuri Street, Jagityal, Karimnagar District

..... APPELLANT(S)

AND

1 The Government of A.P., rep by Secrtary, Social Welfare Dept., Secretariat, Hyderabad
2 The High Level Committee, rep by Convernor and Deputy Secretary to Government
Social Welfare Department Secretariat, Hyderabad
3 The Director of Tribal Welfare, Telugu Sankshema Bhavan, Masab Tank, Hyderabad
4 The Collector Karimnagar District Karimnagar
5 the Sub-Collector, Jagitial Karimnagar District
6 The Judicial First Class Magistrate, Jagitial, Karimnagar District
7 the Sub-Inspector of Police jagitial Town,Karimnagar District
8 The Fertilizzer Corporation of India Ltd., rep by General Manager, Fertilizer City, Ramagundam Unit, Karimnagar

and

WRIT APPEAL NO : 1291 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/04/2004 in WP NO : 16112 OF 2000 on the file of the High Court.)

Between:

1 Ramachandram S/o. Muthi Ramulu
R/o. Jagital, Karimnagar district.
2 A.M. Ram Prakash S/o. Ramachandram
R/o. Jagital, Karimnagar district.
3 A.Ramprathap S/o. Ramachandram
R/o. Jagital, Karimnagar district.
4 A.Padmavathi D/o. Ramachandram
R/o. Jagital, Karimnagar district.
5 A.Lakshmi Kantham S/o. Ramachandram
R/o. Jagital, Karimnagar district.

..... APPELLANT(S)

AND

1The Government of A.P. Rep. by the Secretary, Social Welfare Department, Secretariat, Hyderabad.
2The High Level Committee Rep. by its Convener and Deputy Secretary to Govt., Social Welfare Dept., Secretariat, Hyderabad.
3The Director of Tribal Welfare Telugu sankshema Bhavan, Masab Tank, Hyderabad
4the Collector Karimnagar District, Karimnagar.
5The Sub Collector Jagital, Karimnagar District
6The Judicial First Class Magistrate Jagital, Karimnagar District
7The Sub Inspector of Police Jagital Town, Karimnagar District
8The Govt. of A.P. Rep by its Secretary, Revenue Department, Secretariat, Hyderabad.
9The Commissioner of Land Revenue Nampally Station Road, Hyderabad.

.....RESPONDENT(S)

Counsel for the Appellants:MR.T.DHANURBHANUDU:(in both Writ Appeals)

Counsel for the Respondents: GP FOR SOCIAL WELFARE :((in both Writ Appeals)

The Court made the following Common Judgment: (per Sri Devinder Gupta,CJ)

Petitioners-appellants herein are aggrieved by the judgment of a learned single judge of this Court disposing of their writ petitions with direction to the 4th respondent to examine the matter in view of the report of the High Level Consultative Committee and also as per the provisions of Andhra Pradesh (SC,ST&BCs.) Regulation of Issue of Community Certificates Act, 1993 (hereinafter referred to as "the Act") and pass appropriate orders thereon expeditiously.

We are referring the parties as they were arrayed in the writ petitions.

Petitioners claim that they are "Kolupulavandlu" by Caste which is entered at Sl. No.30 of the list of Scheduled Castes vide the Constitution (Scheduled Castes) Order, 1950. They claim that their caste people are unoutchables socially and beggars by profession and that economically their caste people are poorest of the poor living in small huts belonging to Telengana Region of A.P. Petitioners in the writ petitions have questioned the legality and validity of the Proceedings of the 2nd respondent recorded in its Minutes dated 21.1.1992 regarding the caste status of the petitioners, the report of the 3rd respondent in his file No. 3201/87/TR1-VC-7 as examined by the 2nd respondent in its Minutes on 21.1.1992 and also the proceedings of the 4th respondent dated 22.2.1989 regarding the action being taken

to cancel their Caste Certificates. Consequential proceedings of the 5th respondent dated 19.2.1989 and of the 7th respondent in F.I.R. No.35/92 pending before the Court of the 6th respondent were also questioned on numerous grounds.

We only touch one of the grounds which was highlighted before us amongst several other grounds raised in the writ petitions. The ground was that the enquiry conducted by the Sub-Collector was illegal, arbitrary and violative of the principles of natural justice, due opportunity was not afforded and thus enquiry cannot be made use of against the petitioners for any purposes whatsoever. It was on the basis of the report of the enquiry that action was sought to be taken against the petitioners, which had led to issuance of show cause notice and registration of F.I.Rs. Show Cause notice was served upon the petitioners on 29.7.1992 pursuant to the Minutes of the High Level Consultative Committee held on 21.1.1992. The Government in the Show Cause Notice dated 29.7.1992 had made reference to the detailed enquiry alleged to have been conducted by the Sub-Collector, Jagitial of eighteen (18) Certificate-holders stating that the said 18 Certificate-holders belong to 'Kunapuli' Caste and not "Kolupula Vandlu" and thus called upon the petitioners to show cause within 15 days from the date of receipt of the notice as to why the said false Scheduled Caste Certificates as belonging to "Kolupulvandlu" obtained from the Tahsildar/Mandal Revenue Officer, Jagtial be not cancelled on the basis of the said Minutes of the High Level Consultative Committee and the report of the Sub-Collector, Jagtial. F.I.R. No.35 of 1992 was also registered at Police Station, Jagitial Town for offences under Section 417 and 468 I.PC. The writ petitions remained pending all these years and by common order impugned in these appeals, both the writ petitions were disposed of by the learned single judge with the aforementioned directions.

When the appeals came up before us, we wanted to know from the learned counsel for the respondents about F.I.R. No. 35 of 1992 registered against the petitioners. It was brought to our notice by the learned counsel for the respondents that no further action was taken on the F.I.R. and action was dropped because of Section 21 of the Act.

Be it stated that action which was proposed to be taken against the petitioners had not been taken pursuant to Andhra Pradesh (SC,ST&BCs.) Issue of Community Certificates Act, 1993, which came into force subsequently and the Rules framed

under the Act known as A.P. S.C. S.T. And Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997(hereinafter referred to as “the Rules”), which came into force on 16.5.1997.

Learned counsel for the petitioners contended before us that since the opinion of the High Level Committee is based upon the report of the Sub-Collector, Jagitial, neither the minutes of the High Level Consultative Committee nor the report of the Sub-Collector can form basis for taking any action against the petitioners since no opportunity was afforded to the petitioners to participate in the proceedings and that the report is also void. Further, the report cannot be made use of for any action to be taken against the petitioners. We were also informed that in view of the fact that the Act came into force subsequent to 1993, after receiving of the order of the learned single judge impugned in the appeal, fresh show cause notice had been issued on 12.7.2004, almost on the same lines on which the earlier show cause notice was issued, by relying on the same material and the petitioners were called upon to submit their written statement and to show cause why their Caste Certificates should not be cancelled. As a matter of fact, learned counsel for the petitioners would like us to go into the legality and validity of the report of the Sub-Collector, Jagitial, as also the Minutes of the High Level Consultative Committee and hold that the same are void and cannot be made use of.

We have considered the submissions. We are not inclined to go into the question of legality and validity of the proceedings at this stage in view of what we are about to say about the procedure to be adopted by the Collector in such matters in case action is to be taken against the petitioners.

Section 21 of the Act says that Community Certificate issued before the commencement of the Act, shall unless it is cancelled under the provisions of the Act be valid and shall be deemed to have been issued under the provisions of this Act. The only provision in the Act, which can be made use of by the respondents to cancel the Community Certificate, is Section 5 of the Act. Section 5 of the Act authorizes the District Collector either suo motu or on a written complaint by any person, to call for the record and to enquire into the correctness of such Certificate and if he is of the opinion that the Certificate was obtained fraudulently, he is entitled to cancel the same by notification, after giving the person concerned an opportunity

of making a representation. There is a proviso added to this Section which says that an enquiry into the genuineness of a Community Certificate issued prior to the commencement of this Act has commenced and is pending, the record shall be transferred by the concerned authority to the District Collector, who shall continue the enquiry and conclude the same under Sub-Section (1) of Section 5.

The competent authority shall, while holding an enquiry under the Act, is vested with all the powers of a Civil Court as per Section 9 of the Act and rule 9 of the relevant rules while holding an enquiry into the cases of fraudulent Certificates.

In nutshell, what can be said about the basis of the allegations made in the petition as regards the report of the Sub-Collector and the Minutes of the High Level Consultative Committee is that some material has been collected by the Sub-Collector, Jagitial and on that some opinion has been formed by the High Level Consultative Committee as regards the Caste Certificates relied upon by the petitioners and on the basis of such material and opinion of the High Level Consultative Committee, show cause notice had been issued to the petitioners saying that the Caste Certificate obtained by them from the Mandal Revenue Officer/Tahsildar, Jagitial is false and they had been asked to show cause as to why Caste Certificates issued under Section 5 of the Act be not cancelled.

May be that material was collected by the Sub-Collector, Jagitial and the High Level Consultative Committee failed to take notice of certain G.Os. issued by the Government from time to time or that when the petitioners were not either associated with the enquiry or in the minutes and for that reason, the Collector might not readily direct for enquiry pursuant to the show cause notice without furnishing copy of the report of the Sub-Collector, Jagitial and the opinion of the High Level Consultative Committee to the petitioners, this material on the basis of which the Collector has got power individually for taking action suo motu or it can also be said to be a complaint made to him. As regards the Caste certificate issued in favour of the petitioners, it can form a basis for holding enquiry and of course, it was the Collector who has to make use of the report of the Sub-Collector and the opinion of the High Level Committee. However, it is always open for the petitioners to question the legality and validity of the report of the Sub-Collector as well as the Minutes of the High Level Consultative Committee before the Collector on all available grounds showing that the same should not and ought not to be relied upon for various reasons including the ground that the same is contrary to the various G.Os. issued by the Government.

The report of the Sub-Collector and the opinion of the High Level Consultative Committee can be treated as a piece of evidence and what weight is to be attached to the same would depend on the material, which will be produced before the Collector.

Under the provisions of the Act and the Rules, petitioners are entitled to controvert the report of the Sub-Collector as well as the opinion of the High Level Consultative Committee by whatever material that they would like to controvert the same, and, of course, Collector pursuant to show cause notice which is stated to have been issued on 12.7.2004 will have to afford due opportunity to the petitioners and take his own decision on the basis of the said material and not solely basing upon the report of the Sub-Collector or on the opinion of the High Level Consultative Committee as required under the Act independently, uninfluenced. We cannot exercise the Writ Jurisdiction at this stage, that too, when fresh show cause notice has been issued to the petitioners to go into the legality and validity of the report of the Sub-Collector and the opinion of the High Level Consultative Committee and to invalidate those proceedings. Even if the report of the Sub-Collector and the opinion of the High Level Committee were not furnished to the petitioners, they can be supplied to them and on such supply, the petitioners are at liberty to rebut the same by leading evidence and by producing further material.

Criminal action sought to be initiated against the petitioners pursuant to the show cause notice challenged in the writ petitions has since been dropped, therefore, legal submission on that aspect is over.

Consequently, we dispose of the appeals with a direction to the Collector, Karimnagar to proceed in accordance with law and take his own decision in the light of what we have stated above. In case, petitioners have not yet submitted their replies to the fresh show cause notice, it will be open for them to submit their replies to the said show cause notice within a period of 15 days after the Collector supplies them copies of the material relied upon in the show cause notice. It is needless to add that it will be open for the petitioners to challenge the legality and validity of the report of the Sub-Collector, Jagitial and the Minutes of the High level Consultative Committee on all available grounds including the one taken in the present appeals.

DEVINDER GUPTA,CJ

DATE: 13th September, 2004

C.V. RAMULU,J

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To

1 The Ssecreetary, Government of A.P., Social Welfare Dept., Secretariat, Hyderabad.
2 The Convener and Deputy Secretary to Government, Social Welfare Department, High Level Committee, Secretariat, Hyderabad
3 The Director of Tribal Welfare, Telugu Sankshema Bhavan, Masab Tank,

Hyderabad.
4 The Collector Karimnagar District Karimnagar
5 The Sub-Collector, Jagitial Karimnagar District
6 The Judicial First Class Magistrate, Jagitial, Karimnagar District
7 The Sub-Inspector of Police Jagitial Town,Karimnagar District
8 The Fertilizer Corporation of India Ltd., rep by General Manager, Fertilizer City, Ramagundam Unit, Karimnagar.

9. Two Copies to the G.P. For Social Welfare, High Court Buildings, Hyderabad. (OPUT)

10. Two C.D. copies